



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,402	10/23/2003	James A. Vanck	Sport.201	8500

7590 10/11/2005

Robert D. Varitz
ROBERT D. VARITZ, P.C.
2007 S.E. Grant Street
Portland, OR 97214

EXAMINER

SOOHOO, TONY GLEN

ART UNIT PAPER NUMBER

1723

DATE MAILED: 10/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/692,402

Applicant(s)

VANEK, JAMES A.

Examiner

Tony G. Soohoo

Art Unit

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2003.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-17 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, 4-5, 7-10, 12, rejected under 35 U.S.C. 102(b) as being anticipated by Simmonds 3223389.

Simmonds 3223389 teaches a shaft 6, a stop surface upon 7, two blades 8, 8 with a twist as seen in figure 1. It is noted that the twist would inherently provide the functional recitation to provide to urge the blades into operation or collapsed orientation.

3. Claims 1, 4, 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Enssle 3559962.

The Enssle reference teaches a shaft 12, a stop surface upon 15, at least two blades 28-30 with an angle as seen in figure 1. It is noted that the angle would inherently provide the functional recitation to provide to urge the blades into operation or collapsed orientation, as discussed in column 2, lines 10-33.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 1723

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over by Simmonds 3223389.

Simmonds 3223389 discloses all of the recited subject matter as defined within the scope of the claims with the exception of the blade being a polymer blade. The use of polymer plastic material is old and well known for the characteristics of ease of cleaning, and lower cost of manufacture, accordingly, it is deemed that it would have been obvious to one of ordinary skill in the art to substitute for the material used by the Simmonds reference with a polymer blade so that the blade is easily cleaned and the manufacture costs are lowered, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

6. Claims 6, 11, 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Simmonds 3223389 in view of Stiffler 4083653 or in the alternative McClean 4872764.

Simmonds 3223389 discloses all of the recited subject matter as defined within the scope of the claims with the exception of reduced diameter shaft to provide a manner to couple the shaft to a removable power motor, and further having a polymer blade (claim 15).

The references to Stiffler 4083653 or in the alternative McClean 4872764 both teach in the environment of an collapsible blade agitator with a central shaft (respectively 12, 21) may be attached to a removable drive motor (respectively 36, 15) by an attachment to the shaft having a reduced diameter section as respectively seen in figures 4 (McClean) or alternately 3 (Stiffler).

In view of the teaching by Stiffler 4083653 or in the alternative McClean 4872764, it is deemed that it would have been obvious to one of ordinary skill in the art to modify the end of the shaft of the Simmonds 3223389 shaft with a reduced portion such that the shaft may be more easily attached to a removable motor drive.


Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Simmonds 4396291, Gibson 1827004, 1443738, Hunt 1711114, Stauffert 364059, Thomas 5885001, Weber 5489151, Hatfield 5192131, Brazelton 4981367, Ono 4355906, Roberson 1227671, Lu 5941636, Marcmann 3455540, Holmgren et al 1436172, Farrington 1734120, Eddy et al 2859020, Chapman 2896926, Wilson 4060224, and Ehrenskjold et al 4095919.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tony G. Soohoo whose telephone number is (571) 272 1147. The examiner can normally be reached on 7-5PM, Tue-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Tony G Soohoo
Primary Examiner
Art Unit 1723
